

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

ABEL HERNANDEZ,

Defendant.

**8:17CR285**

TENTATIVE FINDINGS

The Court has received the Revised Modified Presentence Investigation Report (PSR) regarding the defendant, Abel Hernandez. In the Addendum to the PSR, the government objected to Paragraphs 36, 40, 43 and 84 of the PSR. The government further filed a statement adopting the Modified Presentence Investigation Report and Addendum with the exception of the portions of the PSR referenced in the government's previous objection. The government renewed their objections in this filing. (Filing No. 75.) The defendant, Abel Hernandez, has not filed any formal objections to the PSR. *See* Order on Sentencing Schedule, ¶6.

IT IS ORDERED:

1. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

2. The Government objected to Paragraphs 36, 40, 43 and 84 of the PSR regarding the valuation of the bald eagle. The government has indicated they will not offer any additional evidence in support of their objections other than to rebut or address issues raised by the defense at sentencing because they have already provided their evidence in support of their objections to the probation office. The court will resolve the plaintiff's objections at sentencing.

Except to the extent, if any, that the Court has sustained an objection, granted a motion, or reserved an issue for later resolution in the preceding paragraph, the parties are notified that the Court's tentative findings are that the presentence report is correct in all aspects

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings that adheres to the requirements of ¶ 8 of the Order on Sentencing Schedule ([Filing No. 71](#)), supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 2 of this Order, these tentative findings are final;

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and

6. If the parties require more than a half hour for sentencing, counsel must contact Mary Beth McFarland by e-mail, [Mary\\_Beth\\_McFarland@ned.uscourts.gov](mailto:Mary_Beth_McFarland@ned.uscourts.gov).

Dated this 22<sup>nd</sup> day of January, 2019.

BY THE COURT:

s/ Susan M. Bazis  
United States Magistrate Judge